

CHAPTER He-M 1300 SPECIALIZED SERVICES

PART He-M 1301 MEDICAL ASSISTANCE SERVICES PROVIDED BY EDUCATION AGENCIES

Readopt with amendment He-M 1301.02, effective 8-23-16 (Document #11165), to read as follows:

He-M 1301.02 Definitions.

~~(a) "Bureau" means the bureau of developmental services of the department of health and human services.~~

(a) "Care plan" means a written health care plan, including, but not limited to, an Individualized Education Program or a 504 plan maintained in the student's file that documents and supports claims for any covered medicaid services to include services considered to be medically necessary under EPSDT and to be provided to the student and reimbursed to the enrolled school provider.

(b) "Consultation" means the rendering, by a medical or behavioral health provider by a licensed practitioner of the healing arts, of an expert opinion regarding the diagnosis or treatment of a specific child student for which the student was present for the consultation for at least 51% of the time, and pursuant to the covered services listed in He-M 1301.04.

(c) "Covered service" means a service identified pursuant to He-M 1301.04 that is reimbursable under the state medical assistance program and provided to a student.

(d) "Early and Periodic, Screening, Diagnosis and Treatment (EPSDT) services" means a benefit pursuant to 42 CFR 440.40, designed to provide preventative health care, diagnostic services, and early detection and treatment of disease or abnormalities to medicaid eligible individuals under age 21.

(ed) "Enrolled school provider" means a New Hampshire LEA or school administrative unit (SAU) that has agreed to participate in the medical assistance program pursuant to these rules and enrolled with NH medicaid.

(fe) "Federal financial participation (FFP)" means the federal share of costs for services provided pursuant to He-M 1301.

(gf) "Group" means 2 or more persons.

(hg) "Individualized education program (IEP)" means "individualized education program" as defined in Ed 1102.03(h).

~~(h) "Licensed practitioner of the healing arts" means any person licensed or certified under state law to provide a medical, psychological, or other service the goal of which is improvement or maintenance of a person's physical or emotional functioning.~~

(ii) "Local education agency (LEA)" means a local school district.

(j) "Other licensed practitioner" means any person licensed or certified under state law to provide medical or behavioral health services and practicing within the scope of his or her licensure pursuant to the applicable state law for his or her licensure or certification.

(kj) "Medical assistance" means the federally financed medical assistance program established pursuant to Title XIX of the Social Security Act also known as the medicaid program.

(lk) "Order" means a written authorization or prescription for the provision of services prescribed by an advance practice registered nurse (APRN), physician's assistant (PA) or physician.

~~(m) "Performing-only provider" means medical or behavioral health care providers that the medicaid program does not allow to independently enroll with medicaid and must be affiliated with an enrolled school provider.~~

~~(n) "Physician" means a person licensed to practice medicine in New Hampshire or the state in which he or she practices.~~

~~(om) "Pre-school services" means services to children age 3 up to the age of entry either into kindergarten or first grade, whichever is applicable.~~

~~(n) "Referral" means a written recommendation that services of a specific nature should be provided.~~

~~(pe) "School administrative unit (SAU)" means a legally organized administrative body responsible for one or more school districts pursuant to RSA 194-C:1.~~

~~(q) "Section 504 plan (504 plan)" means a plan for services for a student in accordance with Section 504 of the Rehabilitation Action of 1973 as amended.~~

~~(rp) "Signature" means:~~

~~(1) A person's name handwritten by that person, excluding any photocopy, stamp, or other facsimile of such name; or~~

~~(2) An electronic signature that complies with RSA 294-E.~~

~~(sq) "Student" means a person who is eligible to receive medicaid covered services pursuant to He-M 1301.03.~~

~~(tr) "Under the direction" means that, except as prohibited by state law, the qualified professional, whether or not he or she is physically present at the time that services are provided:~~

~~(1) Assumes professional responsibility for the services provided; and~~

~~(2) Assures that the services are medically appropriate and performed safely.~~

Readopt with amendment He-M 1301.03, effective 1-23-16 (Document #11025), to read as follows:

He-M 1301.03 Child-Student Eligibility. To be eligible for medical assistance reimbursement for covered services, a person-student shall:

~~(a) Have a care plan Be identified as a child with a disability as defined in Ed 1102.01(t) for whom an IEP has been developed in accordance with RSA 186-C: 7;~~

(b) Be less than 21 years of age;

(c) Be eligible for -medicaid medical assistance; and

(d) Be served by an LEA or SAU that is an enrolled school provider.

Readopt with amendment He-M 1301.04 through He-M 1301.06, effective 8-23-16 (Document #11165), to read as follows:

He-M 1301.04 Covered Services and Provider Qualifications.

(a) All enrolled school providers shall~~An enrolled provider that offers services under these rules shall be:~~

(1) Verify the qualifications, licensure, and certifications, as applicable, of performing-only providers upon hire and at time of any licensure or certification renewal;~~An LEA or SAU; and~~

(2) Screen all performing-only providers for Medicaid services for exclusions against the OIG exclusion and sanction database pursuant to section 1866(j)(2) of the Social Security Act, section 1903(j) of the Social Security Act, and 42 CFR 1001.1901. The OIG exclusion and sanction database is located at <https://exclusions.oig.hhs.gov>~~Enrolled as a New Hampshire medical assistance provider.~~

(3) Performing-only providers shall be screened upon hire, prior to executing a contract, and on a monthly basis as long as the performing-only provider is providing Medicaid services for which the school is seeking federal FFP.

(b) Covered services shall be:

(1) Provided through a student's LEA or SAU; and

(2) Designed to meet the health needs of a student by facilitating the reduction of a physical or mental impairment and providing rehabilitation.

(c) Covered services shall be included in the student's care plan, or if applicable, medically necessary pursuant to He-W 546 and be documented in the student's care plan.~~IEP.~~

~~(d) Covered services shall be provided by programs approved by the department of education in accordance with RSA 186-C:2, II.~~

~~(de)~~ Covered services shall be provided in a variety of locations and settings as specified in a student's IEP-care plan and may occur outside the hours of the usual school day.

~~(ef)~~ Covered services may be provided by staff employed or subcontracted by the enrolled school provider.

(fg) Covered supplies and equipment described under He-M 1301.04 shall:

(1) Be acquired for the use of a specific student;

(2) When purchased, be the property of the student and his or her family; and

(3) When rented or acquired through a used equipment exchange program, be the property of the student and his or her family during the period used.

(gh) Medical evaluation shall be a covered service and shall include the following:

(1) Those services rendered by a physician or other licensed practitioner~~of the healing arts~~ whose opinion or advice is requested regarding the evaluation or treatment of a student's condition;

(2) The course of treatment or therapy suggested by the physician or other licensed practitioner~~of the healing arts~~ which is overseen by the referring physician or other licensed practitioner~~of the healing arts~~; and

(3) If the physician or other licensed practitioner~~of the healing arts~~ assumes the continuing care of the student, any service(s) provided by such physician or licensed practitioner subsequent to the initial evaluation shall not be considered an evaluation.

(hi) The following medical services shall be billable under the category of medical evaluation:

(1) Examination of a single organ system, including:

- a. Documentation of complaint(s);
- b. Physical examination and diagnosis of current illness; and
- c. Establishment of a plan of management relating to a specific problem; and

(2) In-depth evaluation with development and documentation of medical data, including:

- a. Chief complaint;
- b. Present illness;
- c. Family history;
- d. Medical history;
- e. Personal history;
- f. System review; and
- g. Physical examination.

(ij) Nursing services necessary to meet the health needs of a student as described under ~~Ile-M~~ 1301.03 (a) shall be covered services and shall include:

(1) Any ~~evaluations/assessments~~, treatments or consultations performed by a licensed registered nurse, licensed practical nurse, ~~advanced-practice-registered-nurse (APRN)~~ for a student that are medically necessary in order for the student to benefit from an educational program; and

(2) Supplies and equipment necessary for the provision of the covered nursing services as determined by the licensed registered nurse, licensed practical nurse or ~~advanced-practice-registered-nurse~~ APRN.

(jk) Nursing services shall be performed by the following: A nurse shall be an advanced-practice registered nurse, a registered nurse, or a licensed practical nurse licensed to practice in New Hampshire or the state in which he or she practices.

(1) An APRN licensed to practice in NH or the state in which he or she practices; or

(2) A registered nurse or licensed practical nurse who is:

a. Licensed to practice in NH or the state in which he or she practices; and

b. Acting under the direction of a physician, APRN or PA for those activities that require an order.

(kl) Covered nursing services shall include the following:

(1) Administration of medication(s);

(2) Positioning or repositioning;

(3) Assistance with specialized feeding programs;

(4) Management and care of specialized medical equipment such as:

- a. Colostomy bags;
- b. Nasogastric tubes;
- c. Tracheostomy tubes; and
- d. Related devices;

(5) Observation of students with chronic medical illnesses in order to assure that medical needs are being appropriately identified, addressed, and monitored; and

(6) Other services determined by a registered nurse, licensed practical nurse, or ~~advanced practice registered nurse~~ APRN to be medically necessary and appropriate.

(~~lm~~) Billable categories of nursing services shall include the following:

(1) Nursing ~~evaluation~~ assessment;

(2) Nursing treatment;

(3) Nursing consultation;

(4) Development and documentation of student-specific health information related to the practitioner's scope of practice; and

(5) Supplies and equipment necessary to provide covered nursing services.

(~~lm~~) Occupational therapy services shall be a covered service if the services are medically necessary to implement a program of activities in order to develop or maintain adaptive skills necessary to achieve adequate and appropriate physical and mental functioning of a student including:

(1) Any evaluations, treatment, or consultations performed by a professional qualified under (o) below of students whose abilities to carry out age appropriate tasks are threatened or impaired by physical illness or injury, emotional disorder, or congenital or developmental disability; and

(2) Supplies and equipment necessary to provide the covered occupational therapy services as recommended by an occupational therapist qualified under (~~ne~~) below.

(~~ne~~) Occupational therapy services shall be provided by:

(1) An occupational therapist who is licensed to practice in New Hampshire or the state in which he or she practices, and is either:

- a. Registered by the National Board for Certification in Occupational Therapy Inc.; or
- b. A graduate of a program in occupational therapy approved by the Committee on Allied Health Education and Accreditation of the American Medical Association and engaged in the supplemental clinical experience required before -registration by the National Board for Certification in Occupational Therapy, Inc.; or

(2) An occupational therapy assistant as defined in RSA 326-C:1, IV working under the direction of a qualified professional identified pursuant to (1) above.

~~(op)~~ Covered occupational therapy services shall be ~~referred-ordered~~ by a physician, PA or APRN or other licensed practitioner of the healing arts practicing under his or her scope of practice specified in state law and rules.

~~(pq)~~ Persons providing occupational therapy services shall use treatment techniques including:

(1) Task-oriented activities to correct physical or emotional deficits or to minimize the disabling effect of these deficits in the life of the ~~individual~~ student;

(2) Evaluations of:

- a. Sensorimotor abilities;
- b. Self-care activities;
- c. Capacity for independence;
- d. Physical capacity for prevocational and work tasks; and
- e. Play and leisure performance;

(3) Specific occupational therapy techniques involving:

- a. Improving skills for activities of daily living;
- b. The fabrication and application of splinting devices;
- c. Sensorimotor activities;
- d. The use of specifically designed manual and creative activities;
- e. Guidance in the selection and use of adaptive equipment; and
- f. Specific exercises to enhance functional performance and physical capabilities needed for work activities; and

(4) Other services determined by an occupational therapist to be necessary and appropriate.

~~(qr)~~ Billable categories of occupational therapy services shall include the following:

- (1) Occupational therapy evaluation;
- (2) Occupational therapy, individual;
- (3) Occupational therapy, group; and
- (4) Occupational therapy, consultation;
- (5) Development and documentation of student-specific health information related to the provider's scope of practice; and
- (6) Supplies and equipment necessary for the provision of covered occupational therapy services.

~~(rs)~~ Physical therapy services shall be covered services including:

- (1) Any evaluations to determine a student's level of physical functioning, including performance tests to measure strengths, balance, endurance, and range of motion;
- (2) Any treatment services or consultations which might utilize therapeutic exercises or the modalities of heat, cold, water, and electricity, for the purpose of preventing, restoring, or alleviating a lost or impaired physical function; and
- (3) Other services, including supplies and equipment, determined by a physical therapist to be necessary and appropriate for a student's physical therapy.

(st) Physical therapy services shall be provided by:

- (1) A physical therapist who is a graduate of a program of physical therapy approved by the Committee on Allied Health Education and Accreditation of the American Medical Association and the American Physical Therapy Association or its equivalent and licensed to practice in the state of New Hampshire or the state in which he or she practices; or
- (2) A physical therapy assistant as defined in RSA 328-A:2, VIII who is under the direction of a qualified professional identified pursuant to (1) above.

(tw) Covered physical therapy services shall be medically necessary and ordered from by a physician, APRN or PA or other licensed practitioner of the healing arts practicing within his or her scope of practice as specified in state law and rules for covered physical therapy services.

(uw) Billable categories of physical therapy services shall include the following:

- (1) Physical therapy, evaluation;
- (2) Physical therapy, individual;
- (3) Physical therapy, group;
- (4) Physical therapy consultation;
- (5) Development and documentation of student-specific health information related to the provider's scope of practice;
- (6) Supplies and equipment necessary for the provision of covered physical therapy services;
- (7) Development and documentation of student-specific health information related to the provider's scope of practice; and
- (8) Supplies and equipment necessary for the provision of covered occupational therapy services.

(vw) Psychiatric services shall be covered services if ~~recommended~~ ordered by a licensed physician, PA or APRN to be medically necessary for the evaluation, diagnosis, and treatment of psychiatric problems in order for a student to benefit from an educational program.

(wx) Psychiatric services shall be provided by a psychiatrist who is a physician licensed to practice in New Hampshire or the state in which he or she practices and either board certified or board eligible according to the most recent regulations of the American Board of Psychiatry and Neurology, Inc. or its successor organization.

(xy) Billable categories of psychiatric services shall include the following:

- (1) Psychiatric evaluation and diagnosis;
- (2) Psychiatric treatment;
- (3) Psychiatric consultation; and
- (4) Development and documentation of student-specific health information related to the provider's scope of practice.

(y~~z~~) Psychological services shall be covered services and if recommended-ordered by a certified psychologist, physician, APRN or PA to be medically necessary for the evaluation, diagnosis, and treatment of emotional or behavioral problems or disturbances in order for a student to benefit from an educational program.

(z~~aa~~) Psychological services shall be provided by:

- (1) ~~A~~ psychologist who is a school psychologist or associate school psychologist certified by the state board of education in New Hampshire or in the state in which he or she practices and licensed by the NH board of psychologists or another state's board of psychology; or
- (2) ~~A~~ psychologist or associate psychologist certified-licensed by the New Hampshire board of psychologists or certified-or licensed by another state's board of psychology in the state in which he or she practices.

(a~~ab~~) Billable categories of psychological services shall include the following:

- (1) Psychological testing and evaluation;
- (2) Psychodiagnostic testing;
- (3) Psychological, individual treatment;
- (4) Psychological, group treatment;
- (5) Family counseling, during which the student shall be present at 51% of the counseling session~~some point during the counseling~~;
- (6) Psychological consultation; and
- (7) Development and documentation of student-specific health information related to the provider's scope of practice.

(a~~b~~) Mental health services shall be covered services if they are medically necessary services other than psychiatric and psychological services identified pursuant to (w)-(ab) above that are ordered by a PA, APRN or physician enable the student to benefit from an educational program in the least restrictive setting and including, but are not limited to a minimum:

- (1) Behavior management;
- (2) Individual, group, and family counseling;
- (3) Crisis intervention; and
- (4) Development and documentation of student-specific health information related to the provider's scope of practice.

(acd) Persons providing mental health services shall be:

~~(1) certified pursuant to Ed 507.06, school counseling director, Ed 507.07, school counselor, Ed 507.14, A school social worker, certified by a community mental health program in accordance with He-M 426;~~

~~(2), or Licensed to practice mental health in accordance with the NH Board of Mental Health practice pursuant to New Hampshire RSA 330-A:18, RSA 330-A:19, or licensed in the state in which he or she practices for the practice of mental health services or its equivalent;~~

~~(3) Licensed by the board of psychology pursuant to RSA 329-B; or~~

~~(4) An APRN with a psychiatric specialty pursuant to RSA 326-B:18.~~

(ade) Rehabilitative assistance shall be a covered service and include assistance with:

(1) Mobility;

(2) Communication;

(3) Behavioral management;

(4) Nutrition;

(5) Medications;

(6) Personal care;

(7) Supported employment for students with vocational IEP goals excluding teaching of job tasks, performing job tasks, or providing academic instruction and including, at a minimum:

a. Enhancing social and personal development; and

b. Consultation services in communication, mobility, physical, psychological, or medical well-being in the context of vocational goals and employment settings; and

(8) Any other remedial services, excluding classroom instruction and academic tutoring, that are included in the student's care plan ~~IEP~~ as medically necessary for the maximum reduction of a student's physical or mental disabilities.

(aef) Persons who provide rehabilitative assistance shall:

(1) Be certified pursuant to Ed 504.05 or Ed 504.06, requirements and certification for paraeducators;

(2) Have qualifications equivalent to the requirements for certification under Ed 504.05 or 504.06; or

~~(3) Be licensed practitioners of the healing arts practicing within the scope of his or her practice defined under the law.~~

(aig) Persons providing rehabilitation assistance under Ed 504.05 or Ed 504.06 as paraeducators, or with qualifications equivalent to Ed 504.05 or 504.06, shall provide services in accordance with Ed 1113.12 (b) and (c).

~~(agk) There Covered rehabilitative assistance shall be a medically necessary and ordered by a physician, APRN or PA, 's referral or a recommendation from a licensed practitioner of the healing arts practicing within his or her scope of practice as defined under state law for rehabilitative assistance services.~~

(ahj) Provision of rehabilitative assistance services shall be reviewed by a physician or other licensed practitioner of the healing arts at least weekly. Such review shall include consultation with the staff person providing the rehabilitative assistance. The licensed practitioner of the healing arts conducting the review shall, as part of the review, sign the documentation of the service provided in order to verify that the service was provided.

(aij) Billable categories of student rehabilitative assistance shall include the following:

- (1) Student rehabilitative assistance, individual;
- (2) Student rehabilitative assistance, group; and
- (3) Development and documentation of student-specific health information related to the provider's scope of practice.

~~(ajk) Pre-school services shall be covered services and include speech and language services, mobility and orientation, family counseling and information services, and nutrition services. There shall be a physician's order referral or recommendation for covered pre-school services from a licensed practitioner of the healing arts practicing under his or her scope of practice defined in state law.~~

~~(al) Pre-school services shall be provided by programs approved by the department of education in accordance with RSA 186-C:2-II.~~

(akm) Pre-school service shall be billed as a single category based on a half-day unit. A half-day unit shall equal at least 2 hours and not more than 4 hours of service or, at the option of the LEA, be billed as discrete services based on the units of covered service actually provided.

(aln) Speech, language, and hearing services shall be covered services if they are services, supplies, and equipment recommended-ordered by a licensed audiologist or licensed speech pathologist to be medically necessary for the evaluation, diagnosis and treatment of speech, language, and hearing disorders which result in communication disabilities.

(ame) Speech, language, and hearing services shall be provided by:

- (1) An audiologist who is licensed to practice in New Hampshire or the state in which he or she practices;
- (2) A speech pathologist who is either:
 - a. Licensed pursuant to RSA 326-F to practice in New Hampshire, which shall be considered equivalent to having met the requirements for the American Speech-Language-Hearing Association (ASHA) Certificate of Clinical Competence in Speech-Language Pathology; or
 - b. Licensed in the state in which he or she practices and have one of the following:
 - (i) A Certificate of Clinical Competence from the American Speech and Hearing Association; or
 - (ii) Completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) Completed the academic program and is acquiring supervised work experience to qualify for the certificate;

(3) A speech-language assistant as defined in RSA 326-F:1, II-a working under the direction of a qualified professional identified pursuant to (2) above; or

(4) A speech-language assistant as allowed in RSA 326-F:2, I(c), working under the direction of a qualified professional identified pursuant to (1) or (2) above; ~~or~~

~~(5) A speech-language specialist who meets the requirements of Ed 507.23 and works under the direction of the qualified professional in (1) or (2) above.~~

~~(apf) There shall be a referral order from a physician, APRN or PA for the speech-language services or a licensed practitioner of the healing arts practicing within his or her scope of practice as defined in state law for covered speech, language, and hearing services.~~

(aog) Billable categories of speech, language, and hearing services shall include the following:

- (1) Individual speech, language, or hearing evaluation;
- (2) Speech, language, or hearing therapy, individual treatment;
- (3) Speech, language, or hearing therapy, group treatment;
- (4) Speech, language, or hearing consultation;
- (5) Development and documentation of student-specific health information related to the provider's scope of practice; and
- (6) Supplies and equipment necessary for the provision of covered speech language and hearing services.

~~(apf) Vision services shall be covered services if they are services recommended ordered by a licensed optometrist, ophthalmologist, or APRN or PA other practitioner of the healing arts to be medically necessary for the prevention or rehabilitation of visual impairment or restoration of a student with a visual impairment to his or her best possible functional level.~~

~~(ags) Vision services other than those prescribed or provided by an optometrist and ophthalmologist shall be provided in accordance with the a recommendation order for covered vision services by a physician or other licensed practitioner of the healing arts, practicing under his or her scope of practice defined in state law.~~

(art) Billable categories of vision services shall include:

- (1) Aids to vision prescribed by an ophthalmologist or an optometrist;
- (2) Mobility and orientation training;
- (3) Braille instruction and materials;
- (4) Services and supplies related to diagnostic screening and prevention of visual disorders; and
- (5) Other services and supplies necessary for the provision of restoration of vision or related functioning to the best possible functional level.

~~(as)~~ EPSDT services shall be covered including case management and wrap around coordination if provided in accordance with He-W 546, and shall be prior authorized by the department in accordance with He-W 546.06.

~~(a)(u)~~ Specialized transportation shall be a billable service as follows:

(1) Transportation shall be listed in the student's IEP as a required service;

(2) Transportation shall be considered a required service if:

a. The child requires transportation in a vehicle specially adapted to serve the needs of the disabled child, including a specially adapted school bus; or

b. The child resides in an area that does not have school bus transportation, such as those areas in close proximity to a school, but has a medical need for transportation that is noted in the IEP;

(3) The following transportation may be billed as a medicaid service:

a. Transportation to and from school only on a day when the student receives a medicaid coverable service at school during the school day; and

b. Transportation to and from a medicaid coverable service in the community during the school day;

(4) The medicaid coverable service in (3)a. and (3)b. above shall be listed in the student's IEP as a required service; and

(5) In addition to the documentation required by He-M 1301.06, transportation providers shall maintain a daily transportation log to include:

a. Student's name;

b. Date of service;

c. Clear indication that the student is being transported either one-way or round-trip;

d. The total number of students on the bus, both in the morning and the afternoon;

e. The total miles the bus traveled, both in the morning and the afternoon;

f. Driver's name; and

g. Driver's signature.

He-M 1301.05 Non-Covered Services. The following shall be considered non-covered services and shall not be eligible for reimbursement:

(a) Services not listed as covered services in He-M 1301.04; and

(b) Services not listed in a student's IEP care plan.

(c) Services that are not coverable under the Social Security Act and for which the department is unable to claim FFP for said service;

(d) Services performed by unqualified providers pursuant to the Social Security Act, or services delivered by provider types not approvable under the Social Security Act to provide Medicaid services;

(e) Consultations that do not include the student for at least 51% of the consultation; and

(f) Services which are considered non-covered pursuant to He-W 530.06.

He-M 1301.06 Documentation and Payment for Services.

(a) Reimbursement to enrolled school providers LEAs and SAUs shall be the lesser of the following:

(1) One half of the actual cost, or

(2) The rate established by the department, in accordance with RSA 161:4, VI(a),

(b) ~~LEAs and SAUs~~ Enrolled school providers shall bill by unit of service and submit claims for payment that include the actual cost to the department's fiscal agent.

(c) Enrolled school providers ~~LEAs and SAUs~~ that provide covered services pursuant to He-M 1301.04 shall document each such service in each student's individual record, with such documentation to include:

(1) A copy of the IEP care plan and if an IEP, evidence of implementation of the IEP as required by Ed 1109.04(b);

(2) The name of the student, the medical assistance ID number, and documentation demonstrating receipt of each unit of the covered service;

(3) The qualifications of persons delivering each covered service;

(4) The qualifications, names, and signatures of persons directing the covered services if required under He-M 1301.04.

(5) The name and signature, as defined in He-M 1301.02(p), of the performing-only provider ~~for individuals actually delivering~~ each covered service;

(6) The type of covered service provided;

(7) The date of the provision of the covered service;

(8) The duration of the provision of the covered service;

(9) In the case of group services, documentation of the number of participants in the group who received the covered service regardless of the participants' eligibility under He-M 1301.03 (c);

(10) A copy of a physician's or licensed practitioner's ~~referral, order, or recommendation~~, if required pursuant to He-M 1301.04;

(11) In the case of services provided by personnel described pursuant to He-M 1301.04 (~~ne~~)(2), (~~st~~)(2), (~~am~~)(3), (~~am~~)(4), or (~~am~~)(5), documentation of the qualifications of the professional providing direction; and

(12) Documentation of the qualifications and the handwritten signature of the individual(s) attesting to the medical non-academic nature of the covered rehabilitative assistance provided pursuant to He-M 1301.04 (~~ade~~), in accordance with He-M 1301.04(~~ah~~i).

(d) For services provided to a group, the ~~bill-claim~~ shall be prorated among the number of participants in the group, regardless of the participants' eligibility under He-M 1301.03(c).

(e) ~~The enrolled school provider~~ An LEA or SAU shall only bill covered service time provided simultaneously by more than one qualified provider described in He-M 1301.04, (~~gh~~)(1), (~~jk~~), (~~ne~~), (~~st~~), (~~vx~~), (~~zaa~~), (~~acd~~), (~~am~~), or (~~ags~~) as follows:

(1) By dividing the total time of service by the number of qualified providers, and by billing each provider separately for an equal amount of service time, so that the total time billed equals the actual time the ~~child-student~~ received services;

(2) If rehabilitative assistance is provided pursuant to He-M 1301.04 (~~ade~~)-(~~aj~~i) simultaneously with another covered service, the rehabilitative assistance shall be billed in addition to the covered service; or

(3) If rehabilitative assistance is provided by more than one rehabilitative assistant simultaneously, each assistant's service shall be billed separately.

(f) In calculating the cost for transportation, the ~~enrolled school providers~~ LEA or SAU may include the following actual costs related to the trip:

- (1) Fuel;
- (2) Insurance;
- (3) Driver's salary and benefits;
- (4) Salary and benefits of other persons working on the bus;
- (5) Depreciation, and
- (6) Maintenance.

(g) The total cost calculated in (f) above shall then be divided by the total number of miles for the trip both ways, and then divided by the total number of students on the bus, regardless of the students' eligibility under He-M ~~1300~~1301.03(c) to determine the cost per mile per student.

(h) In accordance with 34 CFR 300.154 (d)(2)(iv) and Ed 1120.08, informed parental consent shall be obtained prior to the enrolled school provider billing the student's Medicaid.

Adopt He-M 1301.07, and renumber the existing He-M 1301.07 and He-M 1307.08, as He-M 1301.08 and He-M 1301.09, so that He-M 1301.07 reads as follows:

He-M 1301.07 Utilization Review and Control.

(a) The department's program integrity unit shall monitor utilization of medical services clinics to identify, prevent, and correct potential occurrences of fraud, waste and abuse in accordance with 42 CFR 455, 42 CFR 456, 42 CFR 1001, and He-M 1301.

(b) The department shall recoup state and federal medicaid payments as permitted by 42 CFR 455, 42 CFR 447, and 42 CFR 456 for a provider's failure to maintain supporting records in accordance with He-W 520 and He-M 1301.

Readopt with amendment He-M 1301.07 renumbered as He-M 1307.08, effective 8-23-16 (Document #11165), to read as follows:

He-M 1301.08⁷ Documentation of Expenditure of Non-Federal Funds.

(a) The enrolled school provider~~LEA or SAU~~ shall provide documentation annually regarding all services rendered pursuant to these rules.

(b) Such documentation shall:

(1) Demonstrate that:

a. The percentage of federal medical assistance reimbursed, as required by section 1905(b) of the Social Security Act, does not exceed 50% of the actual cost of covered services claimed under the medical assistance program; and

b. In no case are services that are reimbursable under the medical assistance program, but paid by other federal funding, claimed under the medical assistance program;

(2) Be reviewed and signed by the enrolled school provider's~~LEA or SAU~~ superintendent; and

(3) Be submitted to the bureau no later than October 30 of each year for the preceding fiscal year period; and

(4) Be accompanied by a completed form "Documentation of Expenditure of Non-Federal Funds" (8/2016) for a specific July 1 through June 30 time period which includes an attestation signed and dated by the superintendent stating,

"I hereby certify that all Medicaid funds paid to the above named districts under He-M 1301, Medical Assistance Services Provided by Educational Agencies for the period July 1, xxxx through June 30, xxxx have been supplemented with LEA/SAU and/or non-federal funds to total 100% of the cost of services rendered and that the Medicaid reimbursement does not exceed 50% of the total cost of the services rendered."

(c) Failure to provide the information required pursuant to He-M 1301.07 (a) shall result in termination of the enrolled school provider's~~LEA's or SAU's~~ enrolled provider status.

Readopt with amendment He-M 1301.08 renumbered as He-M 1307.09, effective 1-23-16 (Document #11025), to read as follows:

He-M 1301.09⁸ Waivers.

(a) An enrolled provider may request a waiver of specific procedures outlined in He-M 1301 by writing to the administrator of the bureau.

(b) A completed waiver request shall be signed by the enrolled provider's designee.

(c) A waiver request shall be submitted to:

Department of Health and Human Services
Office of Client and Legal Services
State Office Park South
105 Pleasant Street, Main Building
Concord, NH 03301

(d) No federally mandated requirement and no provision or procedure prescribed by state statute shall be waived.

(e) The request for a waiver shall be granted by the commissioner or his or her designee within 30 days if the alternative proposed by the enrolled provider:

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact the health or safety of the student(s); and
- (3) Does not affect the quality of services to students.

(f) Upon receipt of approval of a waiver request, the enrolled provider's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which waiver was sought.

(g) Waivers shall be effective for a maximum of 3 years.

(h) An enrolled provider may request a renewal of a waiver from the department. Such request shall be made at least 30 days prior to the expiration of a current waiver.

APPENDIX

Rule	Specific State or Federal Statutes the Rule Implements
He-M 1301.02	RSA 171-A:6, RSA 135-C:1, 42 CFR 483.106
He-M 1301.03	RSA 171-A:6, RSA 135-C:1, 42 CFR 483.106
He-M 1301.04	RSA 186-C:25
He-M 1301.05	42 CFR 440, Subpart A
He-M 1301.06	RSA 186-C:25
He-M 1301.07	RSA 171-A:6; 135-C:1; 42 CFR 483.132
He-M 1301.08	RSA 171-A:6; 135-C:1; 42 CFR 483.132